AN APPEAL

TO THE

MONTREAL CONFERENCE

AND METHODIST CHURCH GENERALLY.

FROM A CHARGE BY REV. WILLIAM SCOTT IN WHICH IS SHOWN HIS CHARGE TO BE INVALID, AND HIS DEFENCE OF THE SEMINARY OF ST. SULPICE AGAINST THE INDIANS OF OKA TO BE BASELESS A FACT IN PROOF OF WHICH HE HAS HIMSELF LARGELY CONTRIBUTED.

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REV. JOHN BORLAND

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WITNESS PRINTING HOUSE, ST. JAMES STREET WEST.
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INTRODUCTION.

When relieved by the action of the Montreal Conference, now about two years ago, of all official connection with their missions, I determined to enjoy the quiet thus given me and leave to others the labor and anxiety which the supervision of these missions necessarily involved. Mr. Scott's report of the Oka Indians' affairs, has compelled me to give up this purpose and once more to take a part—a prominent part—in Oka matters. Two reasons have especial weight in this. First: because Mr. Scott charges me with having "misled the Conference and the Methodist Church generally," by a "one-sided and partial presentation of the Oka difficulty." Secondly: because in opposition to facts and arguments, hitherto believed to be conclusive, Mr. Scott has delivered an opinion in fullest accord with the Seminary in their most extraordinary assumptions. Few things connected with Oka affairs occasioned such a surprise—such a painful surprise to many persons—as the deliverance of this opinion. It was a surprise, because contradictory of a conclusion reached through a thorough consideration of the many facts and arguments which have been abundantly supplied on the subject. It was a painful surprise because it came from a person appointed by his Conference to watch over and promote the interests of the Oka Indians to the utmost of his power. Instead of which, it looked as if—and using his position for the very purpose—he had betrayed those interests to their bitterest enemies.

It is true that in a postscript to his report, published with it, but, as he says, written about a year afterwards, Mr. Scott completely overthrows all of importance which his report con-

tains. But inasmuch as the light which had so recently beamed upon his mind, and which had constrained him to deal such destructive blows to the main positions of his report, did not induce him to withdraw it, (which was the proper course for him to have taken) but has allowed it rather to go out to do its work of utmost mischief, I therefore am impelled from public as from personal considerations to issue the accompanying letters. From circumstances not easy to be controlled, they are necessarily brief, yet I think they contain all that is material for the objects at which they are aimed.

JOHN BORLAND.

Montreal, 3rd April, 1883.

LETTER I.

REASONS FOR MY APPEAL—A GRAVE CHARGE BY REV. WM. SCOTT—RESPONSIBILITY ACCEPTED—VIEWS UNCHANGED—THE SEMINARY NOT OF MR. SCOTT'S OPINION ON THE MERITS OF THE QUESTION.

DEAR BRETHREN,—I am led to make an appeal to you because of a grave charge preferred against me by the Rev. William Scott, the present Superintendent of the French and Indian Missions of the Montreal Conference. The charge is found in a letter from Mr. Scott to the Rev. Alex. Sutherland, D.D., Secretary Treasurer of the Methodist Missionary Society, Toronto, forming part of a postscript to a report relating to the affairs of the Oka Indians, which, he says, he wrote at the instance of the Superintendent-General of Indian Affairs. Referring to certain letters on Oka matters which, in 1872, I addressed to Hon. Joseph Howe, then the Minister of Interior, Mr. Scott says: "They do not contain a fair statement of any of the historic facts, but they abound in harsh invective and painful inuendo. The whole argument is weak and illogical, as well as being at variance with the opinions of the wisest of British statesmen and the judgment of men learned in the law. The effect has been to complicate the affairs of Oka, and render difficult any fair settlement of the Indians' claims. The Montreal Conference and the Methodist Church generally have been misled by the one-sided and partial presentation of the Oka difficulty—more particularly the Montreal Conference."

From the above it is clear that upon me is placed a very weighty responsibility. To keep silent under the circumstances would be a virtual confession of the truth of the charge.

This, therefore, I may not do, but shall proceed to state such facts as will enable you to judge between Mr. Scott and me. I will premise what I have to say, however, with the following statement, viz.: That the views I maintained in those letters I still hold, and that in common with a number of gentlemen, many of whom are distinguished either in legal, ministerial or commercial professions in Montreal and other places. That since the writing of these letters I have read, and with much prayerful interest, all or nearly so, that Mr. Scott says he has read, and other books and documents that he does not mention, as have several other gentlemen feeling deeply with me on this matter, and we have not in one instance seen reason for altering or modifying the views I then expressed and held from the very first agitation of this subject. From Mr. Scott's conclusions, which I will by-and-bye give you, we differ in the fullest and firmest manner, and we still adhere to the oft-repeated declaration, that there is no other proper or satisfactory way of settling the question of title, as between the Seminary and the Indians of Oka, than by a decision of the law courts. I may be told that the Government years ago authorized you to take such a course and at their expense. Such is true, but while we—*i. e.*, first, the Committee of French and Indian Missions of the Methodist Church of Montreal, and next, the Committee of the Civil Rights Alliance—made every effort to bring the question of title before the courts, the Seminary, by every means conceivable and possible, labored, and too successfully, to prevent us. Under these circumstances we worked at a great disadvantage. We had to bear all the expenses incurred by such, which were very great, because, while the Government pledged themselves to bear the outlay incurred in testing the title, these cases were not of this nature, therefore we could not look to them for pecuniary aid. At one time the Seminary's lawyer agreed with Mr. Maclaren to get up a new case, unembarrassed by side issues, by which fairly and squarely to test the question of title and thus put an end to this apparently endless litigation. But when the consent of the Seminary was

asked to this course they peremptorily refused. This, I submit, shows very clearly that in opposition to Mr. Scott's views on this subject, as expressed in his report, and as well to the claims set up by the Seminary, and by their friends for them, the Seminary are not so satisfied of the justice of their case as to venture a sifting of it in the courts of law. And we may not question but that they are shrewd enough to know that, could they obtain such a deliverance, and in their favor it must be if what they say is true, they would be placed in a position very much above any they can aspire to without it. One thing is certain, it would at once stop all further agitation of the subject by the friends of the Indians, who would then unite most heartily in pushing forward any scheme that tended to the peaceful settlement of this vexed question, and of these long perplexed and greatly afflicted band of Indians. If asked what should be done under the circumstances? I answer, the Government should insist—and they only can do so with effect—that so fully as the nature of the case demands, and that as soon as practicable, the whole question shall be taken before the proper courts of the country. That the Government have not done so (and each political party is open to this charge) but have steadily refused to take this course, has laid them open to serious reflections, and the Seminary, while ringing changes on their claims, have preferred a course of cruel and persistent persecutions rather than an honest and honorable appeal to the courts of the country, have drawn upon themselves charges of a grave and compromising character. This no thoughtful and candid person will for a moment question. With many who, as a consequence, have reflected, and severely, upon the gentlemen of the Seminary, I am one, and sometimes in doing so have acted very prominently. To have had no feeling under the circumstances of cruel treatment which I have seen and heard of, as practised by the Seminary and their agents upon these Indians would have shown me to be in nature many degrees lower than that of a human being. That I have felt deeply and sometimes

have spoken and written strongly, has, it appears in the instance already adverted to, given Mr. Scott "great sorrow." In me the sorrow of which I have been conscious, was, that I did not sufficiently arouse on such occasions those who ought to have placed themselves as an effectual barrier between the suffering Indians and their cruel oppressors.

In my next I will remark upon the report Mr. Scott has written, and show why I differ from him in his findings or conclusions.

JOHN BORLAND.

LETTER II.

MR. SCOTT'S CONCLUSIONS—ALL IN FAVOR OF THE SEMINARY—ALL THAT THE SEMINARY COULD WISH—HISTORICAL REVIEW OF THE CASE, AND WHAT IT SHOWS.

DEAR BRETHREN,—In his report Mr. Scott says: "In my judgment there are four branches of the Oka case which require most careful review. First. What are the titular rights of the Seminary of St. Sulpice, and upon what facts do they rest?" And having given these a "careful review," he tells us, as to the first: "There is, therefore, no way by which the judgment of the Hon. Mr. Badgley can be impugned," which is, "That the title of the corporation of the Seminary of St. Sulpice of Montreal, has conferred on that body a valid and absolute right of property in their several seigniories, and constituted that body the sole absolute owners of the property known as the Seigniory of the Lake of Two Mountains."

The second branch, or question, is: "What is the position of the Indians relative to the Seigniory of the Lake of Two Mountains, and what claims have they upon the Seminary?" And Mr. Scott's answer is, "They are tenants at will." The third question, "What is the relation of the Dominion Government or the Department of Indian affairs to the Oka Indians, and what obligations should the Government assume toward the parties now antagonistic?" This Mr. Scott answers in substance as follows: "The Government should be regarded in the light of a friendly adviser, simply; as in this position, with much interest and kind consideration, they have acted in the past, and are prepared to act in the future." The fourth question, is: "What is the status of Protestantism at Oka, and what is the course of conduct which, under all the circum-

stances, it may be expedient for the Methodist Missionary Society to pursue?" and Mr. Scott tells us: "It remains a fact not to be disputed that Protestantism exists at Oka by mere sufferance. That is the status of Methodism at Oka."

Mr. Scott has charged me with misleading the Montreal Conference and the Methodist Church generally, by a one-sided and partial presentation of the Oka difficulty. But what, may I ask in view of the above, has he done in his report? The Seminary, doubtless, feel jubilant over this Daniel who has come to judgment so opportunely in their interest. But let them moderate their joy, for there are those who do not follow Mr. Scott either in his arguments or in his conclusions, and who will give their reasons why they do not.

On the Hon. Mr. Badgley's opinion, already given, I will satisfy myself with but a remark or two for the present. I can concur with Mr. Badgley with the following admissions, which he will allow, I doubt not. First, by the Act of 1841, the Seminary of St. Sulpice, of Montreal, were, for the first time, incorporated. Second, the Act by which they were then incorporated legally invested them with the possession of the several seigniories they had been permitted to hold up to that time. Thirdly, the Act which incorporated them and thus made them the "absolute owners" of the seigniories in question, declared at the same time the object of their incorporation, and which constitute the legal limits or restrictions of their action. That while within those limits or restrictions they are in a certain sense "absolute," yet, beyond them they have no power or right of action whatever. Hence, the following questions are not only pertinent but important here:—1. What are these limits or restrictions which the Act of 1841 has thrown around the Seminary to bind and regulate its action? 2. Have the Indians of Oka any interest in the lands of the seigniory of the Lake of Two Mountains, and if so, what does that interest amount to? 3. Have the Seminary of St. Sulpice fairly and faithfully observed the conditions or limitations of their Act of incorporation, in the case of these

Indians; and if not, as many believe they have not, on whom rests the responsibility to investigate the case and take action accordingly?

Ere I take up these questions for discussion, I propose giving a little history of the Seminary and their properties in Canada, which, I think, will be helpful to a right understanding of the subject in hand.

It is well known that in the early part of the seventeenth century the settlement of Canada by the Government and people of France was to them a deeply interesting question. It was felt desirable not only to induce the French to emigrate there, but also to evangelize the Indian tribes, and thus lead to their settling down in civilized communities with the French. Garneau in his history, tells us: "The prevalent desire in France" was that "the Christianized savages should be held to be naturalized subjects of France, with every privilege belonging to that right, without requiring letters of naturalization therefor." And so greatly was this idea cherished that Champlain is said to have exclaimed: "It is a more glorious thing to secure the salvation of one soul than to conquer an Empire." While the Jesuits in exulting over their achievements in this respect ask, "Is it not a highly commendable sight to behold soldiers and artizans, Frenchmen and savages, dwelling together peaceably and enjoying the good of each other?"

These facts will explain why it was the King of France so readily acceded to requests for grants of land to corporations, religious and otherwise, who desired to promote the civilization of the Aborigines of Canada. Another fact, pertinent to the occasion, is, that Louis the XIV. was particularly anxious to guard against the religious corporations acquiring property, in land or otherwise, for their own aggrandizement. Hence, while he gave lands readily to these bodies for the settlement of the country, they well knew they could not have obtained such on any other plea. Among the first companies formed and invested with land was that called "The Hundred Associates." This Company was constituted of priests and laymen, and while

it contemplated emigration with trading objects, it had special reference to the conversion of the Indians.

After but a few years of operation, this Company sold out its interest in the Seminary of St Sulpice. M. Dupin, an eminent French barrister, whom the Seminary had engaged, while urging their claims upon the English Government, explains the transfer as follows: "That the said Associates, in their quality aforesaid for the promotion and in consideration of the conversion of the Indians of New France (Canada) have given and do give by these presents, &c., &c., to the priests of the Seminary of St. Sulpice, &c., &., and the said parties have agreed that after the charges herein above mentioned shall have been paid, for the preservation of the Island and the continuance of the work, there shall remain any porsion of the revenue arising from the property hereby ceded, such remainder shall be employed for the advancement of the work." Any doubt as to the nature of this work M. Dupin removes by the following statement: "It was made (The Royal assent for the transfer which had to be obtained, and was made known by letters patent) "for an object clearly pointed out, for the promotion and in consideration of the conversion of the Indians in New France; the whole was consecrated to this work; and even in case of excess or an increase in revenue, such excess or increase was to be employed in like manner." "The whole principle of the donation," he adds, "was exclusively destined to the accomplishment of the work pointed out."

On the acquisition of this property the Seminary commenced a mission to the Indians, first in Montreal, and then at the Sault au Recollet. Having obtained the Seigniory and Island of Montreal on such easy terms, and now being assured of its possession, the Seminary thought of further acquisition, and made that of the Lake of Two Mountains in the following way: "Our gentlemen," says the late Rev. T. A. Baile, Superior of the Seminary, "petitioned first, so as to enable them to transfer the Indian Mission which they had at their own expense."

(and yet for this very object, a mission to the Indians, they had the Seigniory and Island of Montreal put into their hands) "established in our Seigniory of Montreal in 1677." This application was made in 1717, and by it they obtained a grant of land nine miles square. Again, another application was made by "our gentlemen," and in 1735 they acquired an additional grant, which, with the former one enlarged their boundary at the Lake of Two Mountains to eighteen miles square and that in one of the richest portions of land in the Province of Quebec.

Here let me call attention to the plea put forth in each instance by the Seminary for these grants. It was to enable them, they tell us, to transfer upon them the mission of the Indians of Sault-au Recollect on condition that they should bear the whole expense necessary for removing the said mission, and also cause a church and a fort to be built there of stone at their own cost, for the security of the Indians. Sometimes, for a purpose easily apprehended, they have added to the words "for the security of the Indians, and the defence of the Colony," as if others besides the Indians and their teachers, &c., were implied in the provisions of these grants. In the applications it will be noticed that for the Indians, and for them only, were they offered, as for their interests simply do the Seminary affect to be influenced or concerned. And equally clear is it that settlement, in maintenance and protection for these Indians, and any others who might be induced to join them on those lands, were the objects, the only objects, expressed or clearly implied in the minds of the grantors, viz., the King of France and his Government, what ever may have been the purposes, secret or otherwise, of "our gentlemen" of the Seminary in asking for them.

We come now to the cession of Canada to England. The Seminary of St. Sulpice, in Paris, who were the only legal holders of the various properties in Canada we have referred to, were represented by certain ecclesiastics of their order in Canada. In the articles of capitulation were several which gave a right

to those French in Canada who did not like to remain under British rule, to sell their properties and take the proceeds thereof to France. An article—the 35th in order—was made in behalf of the religious orders authorizing them to do the same. This article, however, was first reserved for the King's consent, and then subsequently disallowed. This, by some, has been questioned, while others have written and argued as if the very reverse were the fact. Mr. Scott has fallen into this error. He refers to a preceding article which gave authority to "those persons who chose to retire and quit the province to sell their estates and effects to British subjects and return to France," and says: "This article of the treaty gave effect to the thirty-fifth article of capitulation relating to the priests of the Seminary of St. Sulpice." That this is an error and a grave one, Mr. Scott should have known, and knowing ought not to have used it. It was so material to the Seminary's assertion of claims that we may not wonder at their boldness and pertinacity in preferring it; but certainly no one on whom truth and consistency are acknowledged to have predominant claims, should take up their role. The controversies which were maintained between the Seminary and the British Government, and which began almost immediately after the assumption of the Government of Canada by the British, could have had no existence, as they could have had no reason had this article been granted. The granting of the article would not only have prevented the conflicts carried on so earnestly, at least by the Seminary, but also of any necessity for the famous act of 1841. But as this article was refused the party in Paris sought to meet the case by making over their properties in Canada to the members of their body yet living there. This the law officers of the Crown resisted, which fact, with its reasons, Mr. Lindsay gives in his "Rome in Canada." He quotes from a judgment given by Chief-Justice Sewell in the Supreme Court in Quebec in a case of appeal from Fleming *vs.* the Seminary of St. Sulpice. They had entered an action as Seigniors to restrain him from the working of a mill which

he had built on the Seigniory. "The motive of the gift of the island to the Seminary of St. Sulpice, Paris," said the learned judge, in 1663, by an association for the conversion of the Indians in that island, called a trust, which was never fulfilled, and the title was bad from *non-user*. The French king afterward authorized the establishment of a Seminary at Montreal to carry out the grant. . . . . The deed of gift, April 1764, by which the Seminary of St. Sulpice, Paris, assumed to convey the property to the Seminary in Montreal is void. The Island of Montreal being vested in a foreign community incapable of holding lands in Her Majesty's Dominion, the right of property would devolve to the crown. The estates were public property held by the Seminary of St. Sulpice, Paris, under trust for a particular purpose—and they fell to the crown by right of conquest. The absence of a right to transfer the property must make the deed of gift null. The right of the property in the Seminary was only that of administrators, and not such as would entitle them to convey. The grantees, not being a distinct corporation, were incapacitated from taking under the deed. Without a new charter the Seminary could not be prolonged after the death of such of its members as were alive at the time of the conquest." And "that while the Seminary could plead possession they could do so as proprietors."

I will now point to a series of events, each of which sustains my position, but when taken together they render it impregnable. In 1764 the article of capitulation is refused. In 1773 Sir James Marriott, the advocate-general, justifies the refusal by an argument similar to that of Justice Sewell already given. In 1774, an act called the North America Act, was passed by the English Parliament, "to secure to the Roman Catholic clergy the legal enjoyment of their lands, and their titles in their own communion, or from all who professed the Roman Catholic religion." But in that act the Seminary of St. Sulpice, and others like it are excluded in the following distinct and specific manner: "To the Roman Catholic clergy, except the regulars, or members of the religious orders." In 1804, Mr. Sewell, then

the Attorney-General of Lower Canada, prepared an able and comprehensive report for the Government in which he refuted the claims of the Seminary. In 1811, was the important trial on appeal already referred to, in which Justice Sewell so fully ruled against the Seminary. In 1819, the Duke of Richmond, then the Governor-General of Canada, took measures against the Seminary to compel a surrender of the estates in question ; and this was followed by similar action of Lord Aylmer in 1836. To say in the face of all these facts that the 35th article of capitulation was granted, evinces a hardihood of purpose little short of recklessness to the claims of truth. After the rebellion of 1837-8, the Seminary asked, as a reward for the services they were said to have rendered the Government at the time, the confirmation of their title to the estates so long a subject of controversy and of conflict. Sir John Colborne granted their request and caused an ordinance to that effect to be passed by his council. And here we have an important fact in this controversy which the Seminary and their friends appear wishful to keep out of sight. How is it that, like other friends of the Seminary, Mr. Scott has lost sight of it? That fact is, that this ordinance, like the 35th Article of Capitulation, was disallowed by the Home authorities; and that because it was " absolute," and had not in favor of the parties interested in these estates even as the Seminary " the terms, provisos, conditions and limitations" necessary to secure and protect to them such interests. Let those who contend for the " absolute rights " of the Seminary ponder and acknowledge this. It was not until Lord Sydenham's day that the act was passed which gave the Seminary the legal status they had so long and so persistently sought. The passing of this act through the English Parliament was strongly opposed by the Bishop of Exeter and others, but it was defended by the Earl of Ripon, the Duke of Wellington and other peers in the House of Lords, and eventually was passed. Mr. Scott refers to this discussion as though it was maintained in defence of the extreme claims now made by the Seminary. Such, however, was

not the case. The question pending was, shall we maintain the right of the Crown as heretofore held, and in doing so proceed to enforce the surrender by the Seminary of the estates in question ; or, shall we consent to incorporate the Seminary in Montreal and give to them, and for the like purpose, the titles which the Seminary of Paris held previous to the conquest. The Parliament saw that endless conflicts of a painful character were on one side of the outlook, and that pacification and contentment might be on the other. Hence they chose the one that promised a peaceful course. But here, let it be observed, the whole question we are now considering turns upon the light in which the titles, as originally held by the Seminary of Paris, is regarded, and how the Act of 1841 assists us in its interpretation.

JOHN BORLAND.

LETTER III.

SEMINARY'S TITLE EXAMINED—A CORPORATION SIMPLY, AND, AS SUCH, LIMITED AND CONTROLLED IN POSSESSION AND USE OF PROPERTIES—WHAT THE ACT OF 1841 DECLARES —THE ACTION OF CERTAIN PERSONS EXTRAORDINARY— THE RELATION OF THE PARTIES TRACED AND THEIR RIGHTS EXPLAINED.

Dear Brethren,—Let us now look at the claim in behalf of the Seminary which Mr. Scott supports. He says:—"The Seminary found occasion to invoke the candor and honor of their new rulers all through the protracted negotiations, and finally all doubts and controversies as to rights and titles were decently interred by the ordinance of 1840. There is, therefore, no way by which the judgment of the Hon. Mr. Badgley can be impugned on this question of title," which is: "That the title of the corporation of the Seminary of St. Sulpice of Montreal has conferred on that body a valid and absolute right of property in their several seigniories, and constituted that body the sole absolute owners of the property known as the Seigniory of the Lake of Two Mountains." This is a very strongly worded opinion, yet, in one view of the case, cannot be "impugned." We have many bodies corporate in our midst. Banks, Insurance companies, &c., &c. These, according to the acts by which they were incorporated, their charters, hold property, and in law and fact are the owners, the absolute owners, if you will, of these properties. But such proprietory claims can only be sustained while they act according to the terms of their charters. Within these they are absolute; beyond them they are powerless. In taking up the act of 1841—the charter of the Seminary

by which they were for the first time incorporated and empowered to hold legally—we see several objects mentioned for which the revenues from their estates are to be applied. Then any surplus over and above required for these specified objects, can be used at the instance of " the Governor of this Province for the time being," for " such other religious, charitable and educational institutions, as may from time to time be approved and sanctioned ' by him. And then it is added, " to or for no other objects, purposes or intents whatsoever." And, further, to show the charter-like character of this act of incorporation, and as marking the control it was the purpose of the framers of the Act should be exercised over this Seminary, it is declared, that beyond the sum of $120,000, they shall not invest for income any portion of the revenue from these estates. And again, that " the said ecclesiastics of the Seminary of St. Sulpice of Montreal, shall, whenever and so often as they may be hereunto required by the Governor of this Province, lay before him, or before such officers as he shall appoint, a full, clear and detailed statement of the estate, property, income, debts and expenditure, and of all the pecuniary and temporal affairs of the said corporation, in such manner and form, and with such attestations of correctness as the Governor shall direct." And as we know that all chartered companies are so bound by their charters as they may not in any measure go beyond the limits they prescribe, so, evidently, and with a similar design, did the framers of the act in 1841 mark out the course the Seminary should be required to pursue. Hence, we have the particulars I have just given, and as well with them the objects for which the income from the estates should be applied distinctly specified. " And to and for the purposes, objects and intents following, that is to say, the cure of souls within the parish of Montreal —the mission of the Lake of Two Mountains . . . the support of the *petit séminaire* or College of Montreal, the support of the poor, invalids and orphans, the sufficient support and maintenance of the members of the corporation, its officers and servants, and the support of such other religious, charitable and

educational institutions as may, from time to time, be approved and sanctioned by the Governor of the Province for the time being—and for no other object, purposes or intents whatsoever.' We see in the above, that a "support and maintenance" for the Seminary and their servants is thus provided for; and the natural inference from which is, that, but for this fact it would have been unlawful for them to have appropriated to this end one cent of the revenue from the estates they hold, nor less so for any other object than for those so clearly and distinctly specified in the act. In view of these facts—facts as clear as the sunlight, the pretensions of the Seminary to absolute and exclusive ownership is the merest assumption. But if so, what shall we say of those who have given so much learned labor to sustain them in their high, unjust and unauthorized pretensions? For men of the religious faith of the Seminary, and having a political life to care for, (the late Sir Geo. E. Cartier's remarkable failure to secure his election for Montreal East speaks significantly and loudly on the subject), much may be said that I do not care now to go into. But for Ex-Judge Badgley and the Rev. Mr. Scott some other considerations must be thought of to explain their action in this instance. I think that any schoolboy will understand the question when he looks at it in the light of simple facts and history. He will know that while chartered companies can hold properties in the fullest sense in which a legal document can convey them, yet, in all instances, not only is the reason of their creation stated, but with such the limits of their rights and powers are described. Within these limits they are as strong as the law, and the power to enforce it can make them. But let them go beyond these limits, then are they weak as other men. And not only so, but it becomes then the duty of a Government to make them aware of that fact; and, if the case be sufficiently grave to demand such action, to annul the charter, the conditions of which they had violated or evaded. Such a thing has often been done and properly so when legally justified. A great deal of forensic technicality—of learned quibbling—has

been thrown over this whole subject, by which, as in a dark or hazy mist, it has become enveloped. Because of this many in trying to obtain a proper understanding of the question have been misled, or completely bewildered. Nor can I believe that Mr. Scott's present contribution to the literature now abounding on the subject will in the least help to a better apprehension of its nature. Here, then, I place myself, and will contend, that the Seminary of St. Sulpice of Montreal, are but a chartered corporation. That their action as such is prescribed and bound by limits clearly and fully described and defined, not only in the original grants to their society in Paris, but now and especially by the Act of 1841. That "the terms, provisos, conditions and limitations" of this Act are open for consideration, and if it can be shown that the Seminary of St. Sulpice has violated any of these "terms, provisos," &c., &c., especially in a serious degree, it becomes the duty of the Government to investigate the case, and to deal with it even, if needs be, to the annulling and making void forever the charter that has been violated and abused. I make no pretensions to aught but some knowledge of history and a little common sense ; and shall be glad if any of the great legal luminaries who have treated this subject in the interest of the Seminary, or at the instance of the Government, will show where I am mistaken. Now, then, we are open to a proper consideration of the relative claims of the Indians and Seminary of St. Sulpice to the Lake lands. I might, indeed, extend my range of reference, not to the Indians of Oka in particular, or to the Lake of Two Mountains lands, but to the Indians in general, and the whole of the estates held by the Seminary. For, beyond a question, for the Indian race, without limit, were the seigniory and Island of Montreal, as well as that of the Lake, in a legal sense designed. But I will restrict myself to the seigniory of the Lake of Two Mountains and to the Indians so long resident there, for the present at least. The Act of 1841 specifies the Lake seigniory as a part of the estate held by the Seminary. The Act declares also that such, with the other portions of these estates should provide

for "the mission of the Lake of Two Mountains, for the instruction and spiritual care of the Algonquin and Iroquois Indians." Here is seen a great narrowing down of the spirit and purpose of the King and Government of France in making the grants of those estates to this Seminary. From the standpoint which, it has been imagined, this wording of the act gives, we have the provision made for the Indians reduced to so fine a point that, at last, it is all but invisible. The Rev. Mr. Baile says: "The Indians are on our lands, and they can only have the titles which we think proper to grant them." The Hon. Mr. Langevin says: "It is found that the titles of the Seigniory of the Lake of Two Mountains, and acts of Parliament relating thereto, give the Gentlemen of the Seminary of St Sulpice the absolute ownership of the said seigniory, consequently the Indians have no rights of property therein." The Hon. Mr. Laflamme says, "That the claim of the Indians is justified by no recognized principle of law." The Hon. Mr. Badgley says: "The Oka Indians have not, and never had any lawful proprietary claims to the property of the said Lake seigniory." And the Rev. Wm. Scott tells us, "They," the Indians, "are tenants at will." It is true Mr. Scott does not appear quite satisfied with this conclusion, and he therefore speaks of "moral claims," which "a court of equity" would recognize. I apprehend the chance of getting from any court the recognition of a claim simply moral, having no legal foundation or backing, would be very small indeed. But now, let us consider the following points: What band of Indians in the Dominion even having the fullest recognition of rights in a reserve, has proprietary claims? Or who has asked for proprietary claims in behalf of the Indians of Oka, and set up such as against the claims of the Seminary? Have not these learned gentlemen been knocking down a man of straw of their own making? What friend of the Indians but has all along been aware that the idea of proprietory rights is out of the question for Indians anywhere so long as the law, which regards and treats them as minors, is as it is? But does this fact establish the pretensions

of the Seminary, or put a person out of court who stands up for better terms for the Oka Indians than they have received for many years past from the Seminary? Let me ask are the Indians of Caughnawaga, for instance, possessed of proprietory claims in the lands on which they live? And because they have not such, are they, therefore, "tenants at will?" Or, would the Government say to them—they holding the same relation to these Indians which the Seminary does to those of Oka—"The Indians are on our own lands, and they can only have the titles which we think proper to grant them?" A consideration of these queries will serve to blow away a large amount of dust which, with much labor, has been thrown on this point of the subject. But then is it not a fact, I may be asked, that what the law of 1841 binds the gentlemen of the Seminary to do for the Indians is simply to provide "for their instruction and spiritual care," and if so, so long as they keep a church and school open for these purposes do they not fulfil the terms of their charter? Such is the plea put in by Mr. Laflamme, and that by which the Seminary has long been trying to narrow down its action towards these Indians. But will any one say, even if such were the literal rendering of the act, that we should by ruled by it, who knows what the intention of the French King and his government was when the grants of these estates were first made? None will deny that the clearly expressed purpose of the original donors of a property is always taken to explain questions which, on such a subject, have been raised. But we are not left to usage or precedent to guide us here, for we have authority full and clear in the act itself. It says: "Nothing in this act shall extend to, destroy, diminish, or in any manner to affect the rights and privileges of the Crown, or of any person or persons, society or corporate body, excepting such only as this act and the said ordinance expressly and especially destroy, diminish or affect." Hence, whatever were the rights of the Indians as may be gathered from the expressed designs of the French king and Government, and followed by others who were governed thereby, should be taken to

guide us in our decisions on this question. Therefore, we can do without the information which Mr. Laflamme supplies on this point from "Shea's American Catholic Missions." In the brief historical outline given in a previous letter—a verification of which can be found in Garneau's History of Canada—we see the evangelization and settlement of the Indians in lands from which they should be taught to obtain a maintenance, was a leading and cherished idea of the French people. That for such ends the religious orders who came to Canada, readily obtained grants of lands, when, had they been asked for on a personal plea for their order, would have been refused. The Jesuits and Sulpicians made full use of their opportunity and obtained large grants from the French Crown. How the Indians were then treated may be gathered from an exultant declaration of the Jesuits as follows: "Is it not a highly commendable sight to behold soldiers and artizans, Frenchmen and savages, dwelling together peaceably, and enjoying the goodwill of each other."

Mr. Garneau says, "the prevalent desire in France at the time" was that "the Christianized savages should be held to be natural born subjects of France, with every privilege belonging to that right without requiring letters of naturalization therefor." In all essential particulars the grants made to the religious orders were the same. Hence the condition of the Indians settled on the Jesuit's lands is material on this point. Those at Caughnawaga are near at hand and will serve our purpose for reference. To these emplacements were assigned somewhat similar to the concession of lots to the French on seigniories. When the Jesuit order was suppressed the Government took their place, and became to the Indians what the Jesuits, so far as the management of their lands were concerned, had been. In the relation and conduct of the Government to these Indians we see the relation, in the matter of land, of the Seminary to the Indians of Oka, and if their conduct has been widely dissimilar from that of the Government, as it has been, then just insomuch have we a justification in condemning such conduct, and in demanding, in the interests of the Indians, a reform.

Messrs. Doutre and Maclaren in a memorial to Lord Dufferin in behalf of the Indians, put this view of the case in a clear and forcible light. Mr. Scott refers to this with a kind of sneer. It had been better for him if he had allowed their argument its due effect upon his mind. While the Seminary were without a title to these lands, and, as in their case against Fleming, they found to their cost that they had not the legal status they fondly hoped they had, they defended the Lake lands from tresspassers as the guardians of the Indians. Then the Indians had the fullest liberty to cut wood or till the soil, as their interests prompted them. When the famous act of 1841 was passed then the scene was changed; and restrictions for the Indians were laid down and enforced. Since then Indians in any number, and in the most cruel manner, have been arrested, tried and imprisoned for cutting wood for the most ordinary purposes of living. Every means have been employed to starve the Indians out, and drive them from Oka. And will anyone say that such conduct was in accordance with the purposes of the French Government in making these grants? But, it may be said, when the Indians became Protestants they lost their claim upon the Seminary, and on the lands which the Seminary held. This I deny; but let the person who makes this plea on behalf of the Seminary know, and there are not a few who need this information, that it was several years before these Indians turned Protestants that the altered treatment of the Seminary toward them was complained of. Yes; and further, let such persons be informed of this fact; that it was the conduct of the Seminary which first drove these Indians from the Church of Rome. No Protestant minister had been to Oka—certainly not a Methodist one—until after this disruption. And then, as a matter of merest mercy and pity, were these Indians taken up who needed, with sound Scriptural teaching, the commonest necessaries of life, many of them being in a most pitiable condition of poverty and want. From that time on, for years, the Methodists had to appeal to a charitable public to enable them to minister to the temporal wants of these suffering people.

Suffering through want of both food and raiment while the Seminary were enjoying abundance from the very properties they had obtained for the benefit of these Indians. While no enlightened person will say, can say in truth and propriety, that the Seminary of St. Sulpice has kept faith with the King and Government of France, or with the British Government and Parliament, which confirmed to them the title of these lands, so neither can anyone say that the Government of Canada is guiltless in not interfering to uphold the principles of the charter granted this Seminary, and in so doing to protect these Indians from acts of oppression and cruelty, alike a reflection on the country at large as to them. Feeling that something should be done, must be done, if a foul blot is to be removed from our name as a people, the Government are trying to effect the removal of these Indians to far off lands. But what, I may ask, does this mean? Why, if anything, it means that the Seminary are too powerful a body for our Government to grapple with. We cannot compel them to do justice to these Indians, and therefore, as a matter of precedence and policy, for peace-sake, we very much desire to get out of our difficulty by getting the Indians away from Oka! And are we come to this pass, really? If so, then are we enslaved most truly. A government that cannot enforce a law is no government, and the sooner we know this the better. Law, we know, can be enforced against these poor Indians, but not for them. Again and again the police have been brought to Oka, not to arrest the persecutor and put a stop to persecution, but to arrest the persecuted and reduce him to absolute and starving obedience. To this state of things who would willingly bow? Let the whole subject be brought before the Courts. Let them pronounce on the merits of the question, and then with all other friends of these Indians, if the judgment should be adverse to them, I will bow, and however I may regret such, I will submit to it. But until that is done, whatever others may do, I never will be one to compromise this question by a wholesale deportation of the Indians from Oka.

JOHN BORLAND.

LETTER IV.

TWO LAST QUESTIONS DISPOSED OF—THE REV. WM. SCOTT'S IMPROVED VIEWS—HE REFUTES AND OVERTHROWS HIS OWN POSITIONS.

DEAR BRETHREN,—Having disposed of what may be called the major matters of Mr. Scott's report, viz., the titular rights of the Seminary and the position of the Indians relative to the Seigniory of the Lake of Two Mountains, I will now notice one or two particulars that should not be passed by.

The first of these is the status of Protestantism at Oka, and that of the Methodist Church in particular. No one will question but that the evangelization of the Indians was in order to their becoming attached to the Roman Catholic Church, just as their civilization was to place them under the rule and auspices of the French Government. But as we see the change in the government over them was not to affect, much less to destroy, the title to these lands by the Seminary, then why, may I not ask, should a change of faith in these Indians destroy their previously professed interest in them? Especially may this question be pressed when it is known that the actual enjoyment of these lands is more clearly set forth in behalf of the Indians than in that of the Seminary. But this position is very much strengthened by the fact that the change of church relation in the Indians was caused by the conduct of the Seminary toward them, and not through any proselytizing efforts of the Methodists or of any other section of the Protestant Church. That lands which were placed in the hands of the Seminary for both the religious and temporal interests of these Indians should be held for those interests, even when by the conduct of the Semi-

nary, these Indians were driven from theirs to another church, must be admitted, otherwise, the Indians would be punished, not for any wrong-doing of their own, but for that of the Seminary, an act of injustice too glaring for any reasonable or judicious mind to support. Hence, when Mr. Scott says Protestantism, in the Methodist Church, exists at Oka simply on sufferance, he is as far from a just apprehension of his subject here, as on any other he has assumed a disposition of.

On this point, as on others of moment, Mr. Scott's mind appears to have undergone a very marked change since he wrote his report. In a postscript to it, written as he tells us, "nearly a whole year," afterward, he says: "The Government of the Dominion has no right to be perplexed and annoyed in this matter of money, when the whole immense resources of the Seminary are considered, *and considered, too, in respect of the purposes for which the lands were originally granted.*" Again, "As I have shown these lands were not granted to the Indians, *but it is equally certain that they were granted with reference to their salvation and civilization.*" We may congratulate Mr. Scott on the improvement in his views on this subject so apparent in these extracts; yet, may I not ask him, was it but for a limited number of years this lien was placed on these lands, and at the expiration of which the Seminary would be at liberty to drive the Indians from them? If not, but if the lien rather was to be considered a perpetual one, then who should see into and correct or punish any infraction of the charter containing this lien if not the government? Since writing his report, Mr. Scott has evidently risen to a higher and clearer outlook upon this whole subject, hence, in his notable postscript we are told: "The Seminary cannot afford to be indifferent to the voice of the multitude which has respect for the claims of the aborigines of Canada. Legal technicalities do not affect the masses—they look to the equity of any disputed topic." Just so, and the multitude of Canada and others beyond our limits have been, and still are looking at the equity of this topic, as well as its legal aspect, and this all parties

should bear in mind. Again, Mr. Scott says. "There is a deep seated conviction that although the Indians may not have a legal claim to the lands as *owners thereof*." (The italics in this and other instances are mine. I want attention to this statement. It bears the appearance of a quibble frequently used by opponents to the Indian claims. Being minors how can the Indians be "*owners*" or "proprietors" of these or of any lands? But as parents and guardians can hold for minors and the law hold them accountable in behalf of the minors, then why deny such to these Indians?) "They are nevertheless entitled to compensation for the loss of lands which they had been led to suppose were set apart for their benefit." And would not Mr. Scott, even as others have done, lead them to such a supposition? I infer that he would now, at least, from the following found in his remarkable postscript: "The impression prevails that the Indians have an interest in all their (the Seminary's) estates, insomuch as every deed and instrument of whatever sort *granted by the King of France and confirmed by the law of* 1840, *distinctly includes the Indians of New France or of the Dominion as parties to be benefited by the grants.* Accumulations of wealth are not contemplated by the said grants, but the diffusion and continuance of benefits temporal and spiritual." These quotations show a marvellous advance in Mr. Scott toward a right understanding of this vexed question; nor would I refrain from saying, could I judge of him by ordinary principles, such as are applied to men generally, he now very much regrets having written his report, so clearly does he in his postscript overthrow its strongest positions.

The other point, and now the only one, that I wish to remark upon, is the regret Mr. Scott expresses for being "misled" to an act of which he writes in the following strain: "In 1876 I knew no more than the rest of my brethren, and therefore as President of the Conference for that year I consented to an address or petition to Her Most Gracious Majesty, praying for redress of wrongs charged against the Seminary. I now know that the said petition abounds with errors of the

most serious character, and ought not to have been adopted. I never heard of its reception by the Queen, and I suppose it was not deemed worthy of presentation. In that I sorrowfully concur." For Mr. Scott's sorrow I care but little, but for the character and history of that memorial I feel much, and the reason of this I will make, I think, sufficiently clear to the reader. In a meeting of the committee of the Civil Rights Alliance, and at a time when that committee was composed of many of the leading ministers and laity of the Protestant churches of Montreal, the Oka case was under consideration. The cruelties toward the Indians on the part of the Seminary and the inertness of the Government to supply any remedy for such, led the committee to conclude upon getting up a memorial to the Queen. It was thought that as the grants to the Seminary were royal grants, so it would be highly proper to memorialize Her Majesty to appoint a commission to enquire into their nature and to see whether or not the Seminary was carrying out the design alike of the original donors and of the act of 1841. A sub-committee, consisting of several of the most distinguished members of the committee, was appointed to draw up the memorial, the particulars of which had been agreed upon. The sub-committee faithfully performed its work and sent a copy of the memorial to the several Protestant churches in the Dominion with the request that should their annual Union, Synod, Conference or Presbytery, approve of it, they would forward the memorial as from their church to the Ottawa Government for transmission to the Queen. The Congregational Union was the first which met, and having approved of the memorial sent it to the Government at Ottawa for transmission as requested. But before the other churches had time to act, we were all astounded by the intelligence that the colonial Secretary had declined to present the memorial, because, as he said, the question of title as between the Seminary and the Indians had, at the expense of the Dominion Government, been decided by the courts of law. (I give the substance of the reply, not having at hand the exact words of it.) This

announcement was to the friends of the Indians a surprise and subject of deep regret. It was so because it was based upon error. It implied an error so great that we wondered any member of the Government, Provincial or Imperial, could have fallen into it. The fact is, this question of title had never been—no more than up to the present, owing to the persistent opposition of the Seminary, it has been—before any court for adjudication, therefore, on it there could have been no expense borne by the Dominion, or any other Government. But how could such a mistake be made ? And being made who must be held responsible for it ? A full and satisfactory answer to these queries may not now be given. It is clear, however, that the Colonial Minister must have been prompted by some one in Canada to make the reply he sent us. And as the Secretary of State for the Dominion Government would be the person on whom the duty devolved to transmit the memorial, so the natural inference was that he appended to it, or sent with it, the statement which arrested its progress, and thus neutralized the object of the memorialists. The Hon. Mr. Scott, being the Secretary of State in Ottawa at the time, against him the charge has rested. Nor can he be relieved of such in the absence of most definite proof to the contrary. The Rev. Mr Scott tells us he "never heard of its reception by the Queen," and "supposes it was not deemed worthy of presentation ;" and in that he says, "I sorrowfully concur." For "I know it abounds with errors of the most serious character." There are several things which others know as fully and satisfactorily as Mr. Scott does, 1st, that the gentlemen who wrote the memorial and the ministers who brought it before the union meeting of the Congregational church for its adoption, knew what was affirmed in it as well as Mr. Scott while they have as sacred a regard for the claims of truth as he can have. 2. That if the memorial had abounded in errors as he says it did, then such would have been quite as obvious to the state secretaries as to him, and, in refusing to accede to the prayer of the memorialists, they would have supplied a reason having its foundation

on truth, and not one without a particle of such, as was that they sent us. Here we see Mr. Scott is no more successful in propping up this branch of his subject than of the others I have previously disposed of.

JOHN BORLAND.

LETTER V.

THE REVIEWER REVIEWED—MR. SCOTT'S INDICTMENT CONSIDERED AND ITS CHARGES MET—A SUGGESTION FOR SETTLING THE OKA QUESTION OFFERED.

DEAR BRETHREN,—Mr. Scott having written a review of my former letters on the Oka question, I am led to add another in review of his. Not to weary attention on the subject, I will be as brief as my sense of duty in the case will admit.

According to Mr. Scott, I have only hitherto glanced obliquely at his report; and, as a consequence, "its main propositions remain unanswered." Well, others beyond either of us will exercise a judgment here, and on such I am quite willing to to rest the case between us. One consolation I have at any rate to fall back upon, which is, that should the members of the Methodist Church and the public generally, agree with my opponent in his opinion, they certainly will not say that Mr. Scott has himself left any of his propositions, main or otherwise, intact; for, beyond a question, the quotations from his postscript supplied by me in a former letter, have quite demolished every one of them. He may have the glory of this achievement for aught I care. I shall be satisfied with the praise of having merely pointed to the fact.

Mr. Scott is considerate enough to say that he does not accuse me "of wilfully and maliciously misrepresenting any body." No; but having done so such he says is owing to my "mental constitution and moral prejudices." And yet, as he proceeds in his review he "repeats the charge," and even strengthens it with the following words: "The recital as given, or rather repeated by Mr. Borland, is a shameful misrepresentation of facts, evidently made for a party purpose." Under

such an allegation, having any regard for my character, I certainly should not be content to lie; especially having, as I am glad to say I have, abundant material for repelling it.

The indictment of mis-stating and misrepresenting facts which Mr. Scott lays against me, contains several counts, which I will take up in their order:

(1) That I have not quoted M. Dupin with sufficient fulness, so as to make his whole argument as clear as Mr. Scott thinks it should be made. This is the substance of a long paragraph in my opponent's letter. But here, let me remark, M. Dupin was the Seminary's lawyer, and employed by them to neutralize the effect of their failure in the Fleming appeal case, on the English government. In the greater part of Mr. Dupin's pleading, I, no more than the English law-officers, as expressed by them subsequently, have no concurrence. In some one or two things I agree with him fully, especially the one to which my quotation—only partially supplied by Mr. Scott—refers, viz., "That the Associates, as a society, was composed of many individuals, priests as well as laymen, for the conversion of the Indians of New France." And that the royal assent was given to the concession of their rights to the Seminary, "for the promotion and in consideration of the conversion of the Indians in New France, the whole was consecrated to this work; and even in case of excess or increase of revenue, such excess or increase was to be employed in like manner." Now, did not M. Dupin use these words? Is he wrongly quoted here? Mr. Scott will not say he is. What, if other objects are stated by M. Dupin, which serve to show that a settlement of French emigrants also was contemplated with the above, is not the fact plain for any one to see that the interests of the Indians was a leading consideration in the grants?

(2) The second count is a misleading statement concerning the articles of capitulation, by saying the 35th Art. "was first reserved for the King's consent and then subsequently disallowed." This statement, Mr. Scott says, "is simply the outcome of a fertile imagination," for the 35th Art., he avers, "was

neither reserved" nor "disallowed," but was "granted." Here a number of questions, pointing to an opposite conclusion, might be put. I will select a few of such. How was it, I ask, with the idea that the article was granted, that we have the following in the preamble of the Act of 1840: "And it had been contended that all and every of the said fiefs and seigniories became, by the conquest of this province by the British arms, vested, and still remains vested, in the Crown?" How was it, if the 35th Art. was granted, that in 1819, the Duke of Richmond, and in 1834, Lord Aylmer, as Governors-General of Canada, made a demand on the St. Sulpicians to surrender their properties to the government? If Mr. Scott wishes further information on these points, let him apply to the Hon. Ex-Judge Badgley, the reputed author of the memorial from the inhabitants of Montreal to the Home Government, against granting the Charter and Titles to the Seminary, which are found in the Act of 1840. He may obtain from the Ex-Judge much valuable information on this whole matter. It is true it would be greatly damaging to the cause of his clients, the Seminary, and would look in strange contrast to Mr. Badgley's opinion lately given the government. Yet, perhaps, Mr. Badgley would explain why he said the thing was black then, and that it is white now. There are strange things to be met with as we journey along; and the conduct of Mr. Badgley and Mr. Scott, in this Seminary affair, is among such.

But I am not done with asking questions here. If the 35th Art. was granted, as Mr. Scott assures us it was, and with such, a declaration was made of the absolute ownership of the Seminary in their estates, how was it that the law-officers of the Crown, viz., Sir C. Robinson, Ad.-Gen., Sir V. Gibbs, Att.-Gen., and Mr. Plumer, Sol.-Gen., in 1811, when, on one of those occasions of fierce controversy between the Seminary and the Government on the subject, the case was referred to them for an opinion, they declared, "That the Sulpicians in Canada had not a valid title to the lands transferred to them by the Community of Paris?" And was it not in this view of the question

that Judge Sewell acted, and through which the Seminary failed in their important case with Fleming?

But just one word more. Let us consult M. Garneau, the French historian of Canada, and hear what he says on the subject. From him we learn, see vol. II., p. 70: "By this celebrated Act, Sept. 8, 1760, Canada passed finally under British domination. Free exercise of the Catholic religion was guaranteed to its people. Certain specified ecclesiastical brotherhoods, and all communities of *religieuses*, were secured in the possession of their goods, constitutions and privileges; but the like advantages were refused (or delayed) to the Jesuits, Franciscans (Recollets), and Sulpicians, until the King should be consulted on the subject." He further remarks, see vol. II., p. 94: "With respect to the estates of the religious communities, the Lords of the Treasury wrote to Receiver-General Mills, as part of their Instructions for the year 1765; 'Seeing that the lands of these societies, particularly those of the Jesuits, were being united to the crown domains, you are to strive, by means of an arrangement with the parties interested in them, to enter into possession thereof in the name of His Majesty. . . And you are to see that the estates in question are not transferred, and so be lost to the Crown, by sequestration or alienation.'"

In the noted case of Fleming *vs.* the Seminary, Mr. (subsequently Sir James) Stuart, Mr. Fleming's lawyer, refers to this subject in his pleadings before the Court in the following way: "Between the period of the capitulation and the Act of 1774, the curates were not entitled to any legal right which now belongs to them. But that Act not only secured to them the free exercise of their religion, but also to the clergy the enjoyment of their accustomed dues and rights. With respect to the Seminary of Montreal, their exists nothing by which it is discriminated from other bodies—on the contrary, by the 32nd Art. of the capitulation, they are preserved in their constitutions and privileges; but in the very next article, when it is asked that the preceding article shall likewise be executed with regard to the priests of St. Sulpice, at Montreal, the answer is *refused*,

till the King's pleasure be known. Nor was it necessary or consistent that the same liberality should be extended to the Seminary at Montreal. It was inconsistent with the King's supremacy and the public law of the land, and therefore it was extinguished immediately at the conquest." This celebrated trial tested in the fullest sense the Seminary's pretensions, whether from the rejected article or from any other plea. Mr. Scott nibbles at the judgment pronounced by Judge Sewell against the Seminary, and says: "The judgment so much relied on was never confirmed by any English court, and was neither approved nor acted on by the British government." But would such have been necessary so far as Fleming and the Seminary were concerned? One thing is certain, the Seminary lost the case; and whoever might subsequently confront Fleming in the quality of Seignior, the Seminary had no right to do so. Nor is Mr. Scott correct in saying the judgment was never confirmed by any English court, for, it was because of the Seminary's carrying it before them, backed by the legal opinion of Mr. Dupin, that the judgment by the law-officers, as given above, was elicited.

(3) The next count worthy of notice is, that I have falsified my reference to the North American Act in such a manner that Mr. Scott feels justified in using the following language: "The whole story as recited is mere fiction—it is a gross misrepresentation. There was no Act passed in 1774, called the North American Act," &c., &c., &c. From so grave a charge I turn to the Pictorial History of England, vol. I., of the reign of George III., and pp. 164-5, I read, under the heading, 1774, "A bill was brought into the House of Lords, 'For making more effectual provision for the government of the Province of Quebec, in North America.' The principal objects of this bill were to ascertain the limits of the province . . . and to secure to the Roman Catholic clergy, except the Regulars (or members of the religious orders), the legal enjoyment of their lands and of the tithes in their own communities, and from all who professed the Roman Catholic religion. The bill

passed through the Lords with little or no observation; but when it came down to the Commons it met with a very different reception, and gave rise to debates as interesting as any that had taken place during the session."

If the reader will turn his eyes back to the part of this letter where I have quoted Sir James Stuart's address in behalf of his client Fleming, he will see that Sir James refers to this very Act of 1774, in the following words: "Between the period of the capitulation and the Act of 1774, the curates were not entitled to any legal right which now belongs to them." And again, "Nor was it necessary or consistent that the same liberality should be extended to the Seminary at Montreal. It was inconsistent with the King's supremacy and the public law of the land, and therefore it was extinguished immediately on the conquest." And now, am I not entitled to ask, at whose door, Mr. Scott's or mine, lies the clearly sustained charge of misrepresentation? I think it would be well for Mr. Scott to look over, with becoming thoughtfulness, the ninth article of the decalogue.

(4) The fourth count is, that I used the words, "at the instance of the Governor of this Province for the time being," whereas, Mr. Scott says, "there is no such sentence in the Act." Mr. Scott is right here and I am wrong. But what has he gained for his clients, notwithstanding this discovery of my error? Through my error it was as though the Governor might originate the appropriation, which is not the case. It is this—and Mr. Scott must admit my correctness here—that beyond the objects explicitly stated in the Act of 1840, the Seminary has no power to appropriate one farthing of the revenue from the estates they hold, without the consent and approval of the Governor of the Province! And yet Mr. Scott and others with him, in the face of this fact and others equally pertinent, will contend for absolute ownership on the part of the Seminary in the estates they hold. Now, I venture to say that no school boy who, because of his stupidity, has been made to stand at the foot of his class,

crowned with a fool's cap, could be found to endorse the statement with the fact here given before him.

I am charged with inconsistency because, while now opposing a removal of the Indians from Oka, I, in 1875, advocated such, and actually took steps to carry it out. That I did so in 1875, is true; and here is my explanation. I was then acting with a committee in Montreal. With that committee I saw no probability of an end being reached of the annoying and vexatious cruelties of the Seminary towards these Indians. The whole thing was occasioning immense labor, anxiety and expense. Mr. Maclaren always gave us his professional services freely, but other lawyers had to be feed, and such, with other forms of expenditure, were constant and oppressive. The principal weight of all this I had to bear. Throughout a greater part of the cities and towns of Ontario and Quebec I had to travel for funds to meet oft and pressing needs. And now, for the first time, the Indians had become willing to leave Oka for some place of rest and peace. The government offered to get us lands in any part of Ontario we should fix upon—for the Indians declared they would not, if they left Oka, settle in any part of the province of Quebec. With Mr. Parent and the two Chiefs, I went up the Mattawa region, made a choice of lands, returned and made a report to the government, of our selection. The government paid the expenses of our journey, but backed down in the agreement. Instead of getting, or trying to get us any land in Ontario, they made the Indians an offer of such in a far northerly region in the province of Quebec. This, the Indians positively and peremptorily refused. They said to go to such a cold, rocky, barren region, meant death. And if such was really the object the government had in view concerning them, they preferred meeting it at Oka than in the place offered them. As never before, so never since that time have the Indians desired to remove from Oka; and believing as I do in their right to a place on, and as well means of subsistence from the Lake of Two Mountains' lands, I maintain that their feelings and rights should be respected.

And now, not to pursue this discussion any further, I will venture a suggestion to all whom it may concern, as to the best way in my opinion for effecting a settlement of this perplexing question. It is, that a suitable reserve of unappropriated lands on the Seigniory of the Lake of Two Mountains, be set off for these Indians. Let this reserve be placed in the keeping, or under the supervision and care of the Indian department of the government. Let the Seminary be required to pay annually to the government such a sum of money as may be necessary to put the Indians in a proper way of doing for themselves. These annual payments to continue for such a period of years as may be required to give the Indians a fair starting on this reserve.

That the interests of the Indians was a leading and influential plea in obtaining these lands, none will question who has paid any attention to the documentary evidence that bears on this point. And yet no sane mind would think of disturbing those, other than the Indians, who in good faith have been led to settle on these Seignories. Nor is such at all necessary, inasmuch as there is quite enough yet of unappropriated lands to meet the wants of all. The Seminary ought to accept my proposition to solve this long pending difficulty with readiness, and the government should take it up with determinate earnestness. The friends of the Indians, I doubt not, would gladly fall in with this arrangement, and co-operate in any consistent way to make the settlement a success.

JOHN BORLAND.